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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,592	03/30/2001	Katayoun Atefi	END9-2000-0117US1	1255

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EXAMINER
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STIMPAK, JOHNNA

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,592

Applicant(s)

ATEFI ET AL.

Examiner

Johnna R Stimpak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The following is a first office action upon examination of application number 09/822,592.

Claims 1-12 are pending and have been examined on the merits discussed below.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5, 6, 8, 9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms “generic matrix” in claim 5, and “detailed matrix” in claims 5 and 9 are relative terms that render the claims indefinite. Neither “generic matrix” or “detailed matrix” is defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not clear what constitutes a “generic matrix” or a “detailed matrix. Clarification is required.

The term "simple" in claims 6 and 12 and also the term “detailed” in claims 6, 8 and 12 are relative terms that render the claims indefinite. Neither the term "simple" nor the term “detailed” is defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not clear what constitutes a simple question or a detailed question. To define a question as “simple” or “detailed” is purely subjective. Clarification is required.

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Claim 9 is also indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because it is not clear what is meant by using detailed matrices in a workshop approach. Clarification is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1 and 4** are rejected under 35 U.S.C. 102(b) as being anticipated by Aycock et al, US 5,765,138.

As per **claim 1**, Aycock et al teaches a first assessment tool which provides an indication of customer satisfaction using one measurement technique (column 6, lines 15-36 – users answer maturity questions about the system and/or software); a second assessment tool which provides an indication of customer satisfaction with the information technology services using a second technique (column 6, lines 15-54 – upon answering maturity questions, the answers are on a scale from 1-5, each rating having a corresponding description, for example, a rating/weighting of 2 represents a supplier of service that exhibits an elementary level of quality maturity); and a system for combining the results using the first and second assessment tool and providing a report on the information technology service using the two measurement techniques and providing a report with an assessment of the information technology service and at least one recommendation for improving the information technology service (column 6, lines 15-54 – both

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the questions and the weighting descriptions are used in conjunction to evaluate the maturity level of the service; column 9, lines 37-45 – the evaluation are reported, identifying problems to be resolved).

As per **claim 4**, Aycock et al teaches the system provides an analysis of different factors of customer service and provides a relative level of customer satisfaction for each of several different factors, whereby one or more factors which are relatively low may be determined and identified for improvement (column 5, lines 14-65 – a set of quality process maturity requirements are determined based on known standards such as ISO 9001, ISO 9000-1, etc; column 6, lines 15-54 – both the questions and the weighting descriptions are used in conjunction to evaluate the service; column 9, lines 37-45 – the evaluations are reported, identifying problems to be resolved).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 2, 3 and 7-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al, US 5,765,138.

As per **claim 2**, Aycock et al teaches numerical weighting/rating factors with corresponding description of each number (column 6, lines 15-54), but does not teach a matrix for analyzing the service as delivered to the customer against different levels of customer

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satisfaction. However, the use of a chart or matrix to organize data so that information is conveyed clearly is old and well known. Therefore, it would have been obvious to one of ordinary skill in the art to collect the numerical rating/weighting factors along with a description of each, into a matrix form to organize the data into a format that is easily understood by a user. This would make the assessment user-friendlier.

As per **claim 3**, Aycock et al teaches another tool used includes questions for the customer, which questions are used to assess the level of customer service and satisfaction perceived by the customer (column 6, lines 14-67 –maturity questions are asked of the user to determine the level of maturity of the system).

As per **claim 7**, Aycock et al teaches comparing the perceived service attribute with established levels of service (column 6 – each maturity question is answered by a user and compared with established levels of service on a scale of 1-5); determining the maturity of service (column 6, lines 15-54 – both the questions and the weighting descriptions are used in conjunction to evaluate the service); and providing a report with recommendations for improving the delivery of IT service to customers (column 9, lines 37-45 – the evaluation are reported, identifying problems to be resolved). Aycock et al teaches numerical weighting/rating factors with corresponding description of each number (column 6, lines 15-54), but does not teach a matrix for analyzing the service as delivered to the customer against different levels of customer satisfaction. However, the use of a chart or matrix to organize data so that information is conveyed clearly is old and well known. Therefore, it would have been obvious to one of ordinary skill in the art to collect the numerical rating/weighting factors along with a description

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of each, into a matrix form to organize the data into a format that is easily understood by a user.

This would make the assessment user-friendlier.

As per **claim 8**, Aycock et al teaches the user responding to questions regarding maturity of service (column 6), but does not explicitly teaches interviewing customers. However, it is old and well known in the art of surveys that there are several methods by which to collect the survey information, such as pencil/paper format, interviews, etc., therefore it would have been obvious to one of ordinary skill in the art to collect user information regarding maturity of service through an interview.

As per **claim 9**, Aycock et al teaches determining a level of maturity of a system and providing a report includes comparing the maturity of IT services with levels of maturity for different aspects of IT service delivery (column 6, lines 15-54 – both the questions and the weighting descriptions are used in conjunction to evaluate the maturity level of the service; column 9, lines 37-45 – the evaluation are reported, identifying problems to be resolved), but does not teach a detailed matrix or a workshop approach. However, the use of a chart or matrix to organize data so that information is conveyed clearly is old and well known. Therefore, it would have been obvious to one of ordinary skill in the art to collect the numerical rating/weighting factors along with a description of each, into a matrix form to organize the data into a format that is easily understood by a user. This would make the assessment user-friendlier. As to the workshop approach, it is old and well known that there are several methods of collecting evaluations from users. These methods can include, interviews, email surveys, mail surveys, telephone surveys, or “workshops” wherein the users are gathered together and surveys are distributed and collected. Therefore it would have been obvious to one of ordinary skill in

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the art at the time of the invention to collect evaluation data from users in a workshop approach since the evaluations would be completed and collected in a timely manner in a way to expedite the assessment.

As per **claim 10**, Aycock et al teaches the step of evaluating the delivery of IT services includes the use of at least two different types of assessment (column 6, lines 15-36 – users answer maturity questions about the system and/or software; column 6, lines 15-54 – upon answering maturity questions, the answers are on a scale from 1-5, each rating having a corresponding description, for example, a rating/weighting of 2 represents a supplier of service that exhibits an elementary level of quality maturity; column 6, lines 15-54 – both the questions and the weighting descriptions are used in conjunction to evaluate the service).

As per **claim 11**, Aycock et al teaches the two different types of assessment include using questions to determine the level of maturity (column 6, lines 15-36 – users answer maturity questions about the system and/or software), but does not explicitly teach a matrix to determine the level of maturity of the information technology services. Aycock et al teaches numerical weighting/rating factors with corresponding description of each number (column 6, lines 15-54), but does not teach a matrix. However, the use of a chart or matrix to organize data so that information is conveyed clearly is old and well known. Therefore, it would have been obvious to one of ordinary skill in the art to collect the numerical rating/weighting factors along with a description of each, into a matrix form to organize the data into a format that is easily understood by a user. This would make the assessment user-friendlier.



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8. **Claims 5, 6 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al, US 5,765,138, in view of Armstrong, US 5,627,973.

As per **claim 5**, given the numerous 35 USC 112 rejections concerning the terms “detailed”, “generic” and “workshop”, Examiner has construed claim 5 to recite the use of two separate types of questions with 2 different sets of answers given in a matrix format. Aycock et al teaches numerical weighting/rating factors with corresponding description of each number (Aycock - column 6, lines 15-54) but does not explicitly teach the use of two separate matrices, used for assessment, one of which is used in a workshop. Armstrong teaches using different sets of questions requiring different types of answering methods. Since both Aycock et al and Armstrong teach a system facilitating the evaluation of supplying a service by collecting answers to questions from users, it would have been obvious to one of ordinary skill in the art to use more than one set of questions in Aycock et al’s system, as is done in Armstrong, to equip the assessment with appropriate questions based on the user being assessed. This would make the assessment more reliable since certain questions are asked of appropriate users. The combination of Aycock et al and Armstrong does not explicitly teach the use of matrices for analyzing the service as delivered to the customer against different levels of customer satisfaction. However, the use of a chart or matrix to organize data so that information is conveyed clearly is old and well known. Therefore, given the combination of Aycock et al and Armstrong to teach using more than one set of questions with different sets of answers, it would have been obvious to one of ordinary skill in the art to present the numerical rating/weighting factors for each set of questions, along with a description of each factor, into a matrix form to organize the data into a format that is easily understood by a user. This would make the

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assessment user-friendlier. Neither Aycock et al or Armstrong teach the use of a workshop.

However, it is old and well known that there are several methods of collecting evaluations from users. These methods can include, interviews, email surveys, mail surveys, telephone surveys, or “workshops” wherein the users are gathered together and surveys are distributed and collected.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to collect evaluation data from users in a workshop approach since the evaluations would be completed and collected in a timely manner in a way to expedite the assessment.

As per **claim 6**, Aycock et al does not explicitly teach a first system including simple questions and a second system with detailed questions and one system or the other is selected for the assessment. Armstrong teaches different sets of questions requiring different types of answering methods (column 2, lines 10-20). These different answering methods are construed to reflect simple and/or detailed questions. Since both Aycock et al and Armstrong teach a system facilitating the evaluation of supplying a service by collecting answers to questions from users, it would have been obvious to one of ordinary skill in the art to include “simple” and/or “detailed” questions in Aycock et al’s system, as is done in Armstrong, to equip the assessment with appropriate questions based on the user being assessed. This would make the assessment more reliable since certain questions are asked of appropriate users.

As per **claim 12**, Aycock et al does not explicitly teach a first system including simple questions and a second system with detailed questions and one system or the other is selected for the assessment. Armstrong teaches different sets of questions requiring different types of answering methods (column 2, lines 10-20). These different answering methods are construed to reflect simple and/or detailed questions. Since both Aycock et al and Armstrong teach a system

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facilitating the evaluation of supplying a service by collecting answers to questions from users, it would have been obvious to one of ordinary skill in the art to include “simple” and/or “detailed” questions in Aycock et al’s system, as is done in Armstrong, to equip the assessment with appropriate questions based on the user being assessed. This would make the assessment more reliable since certain questions are asked of appropriate users.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Simmons, US 6,765,593 – method and system for evaluating serviceability of a computer system.

Stephanou, US 6,507,821 – system and method for providing information technology IT expert referral over a network

Rehkopf, US 6,505,248 – method for optimizing end-to-end processing performance by selecting optimal values after running benchmarks repeatedly with different values

Burnstein et al, A model to assess testing process maturity

emm@, New e-business maturity model developed jointly by PricewaterhouseCoopers and Carnegie Mellon University, Delivers first benchmarking standard for measuring e-business performance

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R Stimpak whose telephone number is 703-305-4566.

The examiner can normally be reached on M-F 8am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS  
3/17/05



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